

USDOL/OALJ Reporter

[*Hummer v. ICF Kaiser Hanford Co.*](#), 96-ERA-12 (ALJ July 30, 1996)

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U.S. Department of Labor
Office of Administrative Law Judges
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CASE NO. 96-ERA-12
ISSUED: July 30, 1996

IN THE MATTER OF:

DIRK HUMMER
Complainant

v.

ICF KAISER HANFORD COMPANY,
Respondent.

**RECOMMENDED ORDER APPROVING SETTLEMENT
AND DISMISSAL WITH PREJUDICE**

This proceeding arises under Section 210 of the Energy Reorganization Act of 1974 (hereinafter the "Act"), 42 U.S.C. §5851, the Clean Air Act, 42 U.S.C. §7122, the Solid Waste Disposal Act, 42 U.S.C. §6971, the Toxic Substances Control Act, 15 U.S.C. §2622, the Comprehensive Environmental Response,

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Compensation and Liability Act, 42 U.S.C. §9610 as implemented by the regulations at 29 C.F.R. Part 24. The complainant Dirk Hummer filed a complaint with the U.S. Department of Labor (DOL) received on 9/6/1995 alleging illegal discriminatory conduct toward him due to his protected activities under the Act.

The DOL District Director, after unsuccessful efforts to conciliate the matter, conducted an investigation and issued a determination on 3/18/96 which complainant appealed 3/22/96 requesting a hearing under 29 C.F.R. Part 24.

By 4/2/96 Notice of Hearing the matter was scheduled for a 5/10/96 Richland WA hearing. An 4/10/96 Order of Continuance followed on complainant's 4/8/96 Motion to Continue the Scheduled Hearing for One Month.

Thereafter the parties 7//25/96 Stipulation of Dismissal and Request for Approval of Settlement was received; with its attached copy of the executed settlement agreement and general release of claims. See also Mr. Dunwoody's 7/25/96 transmittal letter. The documents are appropriately signed by the parties and purport to incorporate the parties' understanding as to the basis for the settlement. In accordance with this settlement the parties have moved that the Administrative Law Judge recommend this matter be dismissed with prejudice.

Review of the settlement agreement is limited to a determination of whether its terms are a fair, adequate and reasonable settlement of Mr. Hummer's complaints concerning violations of the whistleblower protections of the various cited statutes including the Energy Reorganization Act. *Fuchko and Yanker v. Georgia Power Co.*, 89 ERA 9 and 10 (Sec'y March 23, 1989.) The basic criteria is whether or not the settlement adequately protects the whistleblower and whether the settlement is contrary to the public interest.

The parties are represented by counsel. After consideration of the settlement agreement and the representations of the parties, the agreement appears to be fair, adequate and reasonable and it appears to be in the public interest to adopt the agreement as the basis for the administrative disposition of this case. 29 C.F.R. §18.39(b).

THEREFORE IT IS HEREBY RECOMMENDED THAT the Secretary of Labor enter an order dismissing this matter with prejudice.

ELLIN M. O'SHEA
Administrative Law Judge

EOS:brt

NOTICE: This Recommended Decision and Order and the administrative file in this matter will be forwarded for review by the Secretary of Labor to the Administrative Review

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Board, United States Department of Labor, Room S-4309, 200 Constitution Avenue, N.W., Washington, D.C. 20210. The Administrative Review Board has the responsibility to advise and assist the Secretary in the preparation and issuance of

final decisions in employee protection cases adjudicated under the regulations at 29 C.F.R. Parts 24 and 1978. See 55 Fed. Reg. 13250 (1990).